

REMARKS

Applicants appreciate the indication that claims 8, 18 and 39 recite allowable subject matter.

Claims 11, 27 and 44 are amended without prejudice.

Claims 5-7, 11-17, 25-34, 36-38 and 40-42 are newly rejected as anticipated by Min-Jae (U.S. Patent No. 6,222,807). Claims 43-50 are rejected as being unpatentable over Min-Jae. And claim 35 stands rejected as being unpatentable over Min-Jae in view of Looney (U.S. Patent No. 5,969,283). But since the art as applied does not teach the combinations defined by these claims we respectfully traverse the rejections.

*Claim 5*

Claim 5 recites a method where audio is received at a device. A plural-bit audio ID is discerned from the audio. A user ID is obtained from a memory in the device, and at least a portion of the audio ID and the user ID are transmitted to a location remote from the device.

The cited passages of Min-Jae do not teach “discerning from the audio a plural-bit audio ID,” in combination with other features of the claim.

The “control information” relied upon in Min-Jae is stored in a control file (see Col. 20, lines 10-11). And while the control information may include pieces of file information, “each [piece is] recorded for an audio file in a group of files.” See Col. 20, lines 23-25 (emphasis added). This control information does not seem to be discerned from audio; rather, it is created for audio. And while information may be then read from a control file related to one or more audio dubbings, a plural-bit audio ID is not discerned from audio.

(Similarly, and with a respect to a music file, while a song ID is unique to a piece of music it does not seem to be discerned from the audio. See Col. 20, lines 34-36.)

We also note distinction relative to another example mentioned in Min-Jae. At Col. 22, lines 26-46 he states:

*The disc title TI (x), and the disc identification information ID (x) are pieces of information required for identifying a musical album. For example, the disc identification information ID (x) is a special code set for individually identifying a musical album. In actuality,*

*the code can be a number typically set for each album in accordance with some techniques or a number unique to the recording medium such as a CD derived from TOC (Table of Contents) information recorded on the CD. Typically, the TOC information of a CD comprises pieces of data including a total performance time, the number of recording tracks, a performance time for each piece of music and a relative time representing the start of each piece of music. An identification code is then a number which is unique to the album and obtained as a result of a synthesis of these pieces of data by adoption of a predetermined technique. That is to say, such a number can be used as the disc identification information ID (x). In the case of recording media such as a CD-ROM and a CD text including recorded ID information, the ID information can be used as a disc identification information ID (x). (emphasis added)*

Such identifiers are derived from information accompanying audio on a CD (Table of Contents information), but does not suggest deriving a plural-bit audio ID from the audio on the CD.

(We also disagree that Col. 12, lines 54-66 discusses transmitting an audio ID that is discerned from the audio.)

Claim 5 stands ready for allowance.

#### *Claim 15*

Claim 15 recites a method including receiving audio at a device. The audio is provided to a processing system and an audio ID decoded from the audio is then received. A user ID is obtained from a memory in the device, and at least a portion of the audio ID and the user ID are transmitted to a location remote from the device.

The cited passages of Min-Jae do not discuss – or even hint at – an audio ID decoded from audio, in combination with the other features of claim 15.

As discussed above with respect to claim 5, the “control information” relied upon in Min-Jae is stored in a control file (see Col. 20, lines 10-11). And while the control information may include pieces of file information, “each [piece is] recorded for an audio file in a group of files.” See Col. 20, lines 23-25 (emphasis added).

This control information is not decoded from audio; rather, it is created for audio. And while information may be then read from a control file related to one or more audio dubbings, a plural-bit audio ID is not decoded *from* audio.

(We also disagree that Col. 12, lines 54-66 discusses transmitting an audio ID that is decoded from the audio.)

(Similarly, and with a respect to a music file, while a song ID is unique to a piece of music it does not seem to be discerned from the audio. See Col. 20, lines 34-36.)

Claim 15 stands ready for allowance.

#### *Claim 11*

Claim 11 recites – combination with other features – a processing system operable to detect an identifier of ambient audio from electrical signals representing the ambient audio.

The cited passages (Col. 20, lines 23-37) discuss “control information.” This information is stored in a control file (see Col. 20, lines 10-11). And while the control information may include pieces of file information, “each [piece is] recorded for an audio file in a group of files.” See Col. 20, lines 23-25 (emphasis added). This control information is not discerned from audio; rather, it is created for audio. And while information may be then read from a control file related to one or more audio dubbings, a plural-bit audio ID is not discerned *from* audio.

(Similarly, and with a respect to a music file, while a song ID is unique to a piece of music it does not seem to be discerned from the audio. See Col. 20, lines 34-36.)

Favorable reconsideration is requested.

#### *Claim 27*

Claim 27 recites – in combination with other features – transferring electronic signals representing the received ambient music to a processor, and receiving from the processor an identifier derived from the electronic signals.

As discussed above the cited passages at Col. 20, lines 23-27 do not teach or suggest deriving an identifier from the ambient music or electronic signals representing the ambient music.

Favorable reconsideration is requested.

*Remaining claims*

We ask for independent reconsideration of the dependent claims as well. We respectfully submit that many of these combinations recite patentable combinations in their own right.

For example, claim 43 recites processing comprising decoding a watermark from transferred electronic signals (representing ambient music). The Office Action suggests that it would have been obvious to modify the invention of Min-Jae to employ digital watermarking. But why? Especially since there does not seem to be any detection or deriving pertaining to the audio itself.

We take an analogous position with respect to claim 44.

The recited claim language of claim 29 does not appear to have been considered. (Contrast claim 29 to the discussion of this claim on page 3 of the Office Action.). Claim 29 recites that textual information provides a user an opportunity to have music, or data related thereto, electronically sent to a destination device. The Office Action only seems to discuss textual information presented to a user, but not that the textual information provides a user an opportunity to have music or data electronically sent to a destination device.

We need not belabor the other shortcomings of the cited art at this time. (We also traverse the notion that Min-Jae should be combined with Looney as suggested.).

We respectfully request reconsideration and an early Notice of Allowance. In the meantime, the Examiner is respectfully invited to contact the undersigned with any questions.

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Respectfully submitted,

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